



59 Maiden Lane, 6th Floor
New York, NY 10038

Phone: (212) 566-7500
Fax: (212) 566-7501
www.DouglasAndLondon.com

Gary J. Douglas ^P
Michael A. London ^{*}
Stephanie O'Connor ^{*}
Randolph D. Janis
Virginia E. Anello [^]

Rebecca G. Newman ^{*}
Robin J. Bond ^{*}
Alicia Ellsayed
Lara J. Say ^{*n}
Tate J. Kunkle [†]
Anne Accettella
Sara Castronuova ^{*}
Joseph Grenner ^F

^{*} Also admitted in NJ
^P Also admitted in PA
[^] Also admitted in LA & MA
ⁿ Also admitted in NC
[†] Also admitted in CT
^F Only admitted in LA

*The attorney in charge of New Jersey
practice is Michael A. London*

April 16, 2024

VIA ECF

Honorable Brian M. Cogan
United States District Court
Eastern District of New York
225 Cadman Plaza East
Brooklyn, NY 11201

**Re: In re: Oral Phenylephrine Marketing and Sales Practices Litigation
1:23-md-03089-BMC**

Dear Judge Cogan:

The Plaintiffs' Executive Committee in the above litigation, with the consent of all Defendants, write to advise the Court that the parties have met-and-conferred and reached agreement, subject to the approval of the Court, on a proposed order governing Plaintiffs' forthcoming Initial Streamlined Consolidated Complaint and the motion to dismiss arguments that Defendants will raise in response to that Initial Streamlined Consolidated Complaint. The parties respectfully request that the Court enter the proposed order attached as Exhibit 1, which reflects the parties' agreement.

Dated: April 16, 2024

Respectfully Submitted:

/s/ Michael A. London

Michael A. London (ML-7510)

DOUGLAS & LONDON P.C.

59 Maiden Lane – 6th Floor

New York, New York 10038

Tel: 212-566-7500

mlondon@douglasandlondon.com

Chairperson of the Plaintiffs' Executive Committee

Bryan F. Aylstock
**AYLSTOCK WITKIN KREIS
OVERHOLTZ PLLC**
17 East Main Street, Suite 200
Pensacola, Florida 32502
Tel: 850-202-1010
baylstock@awkolaw.com

Kiley L. Grombacher
BRADLEY/GROMBACHER LLP
31365 Oak Crest Drive, Suite 240
Westlake Village, California 91361
Tel: 866-881-0403
kgrombacher@bradleygrombacher.com

James E. Cecchi
**CARELLA BYRNE CECCHI BRODY &
AGNELLO, P.C.**
5 Becker Farm Road
Roseland, New Jersey 07068
Tel: 973-994-1700
jcecchi@carellabyrne.com

Adam J. Levitt
DICELLO LEVITT LLP
Ten North Dearborn Street, Sixth Floor
Chicago, Illinois 60602
Tel: 312-214-7900
alevitt@dicellolevitt.com

Elizabeth A. Fegan
FEGAN SCOTT LLC
150 South Wacker Drive, 24th Floor
Chicago, Illinois 60606
Tel: 630-273-2625
beth@feganscott.com

Jonathan D. Selbin
**LIEFF CABRASER HEIMANN &
BERNSTEIN LLP**
250 Hudson Street, 8th Floor
New York, New York 10013
Tel: 212-355-9500
jselbin@lchb.com

Christopher A. Seeger
SEEGER WEISS LLP
55 Challenger Road
Ridgefield Park, New Jersey 07660
Tel: 888-546-8799
cseeger@seegerweiss.com

Jason P. Sultzer
THE SULTZER LAW GROUP P.C.
85 Civic Center Plaza Ste. 200
Poughkeepsie, New York 12601
Tel: 845-244-5595
sultzerj@thesultzerlawgroup.com

Lindsey N. Scarcello
WAGSTAFF & CARTMELL
4740 Grand Avenue, Suite 300
Kansas City, Missouri 64112
Tel: 816-701-1102
lscarcello@wcllp.com

*Plaintiffs' Executive Committee
and Interim Class Counsel*

/s/ Andrew Soukup
Andrew Soukup (*pro hac vice*)
Laura Flahive Wu
COVINGTON & BURLING LLP
One CityCenter
850 Tenth Street, NW
Washington, DC 20001-4956
Telephone: (202) 662-5066
asoukup@cov.com
lflahivewu@cov.com

Cortlin H. Lannin (*pro hac vice*)
COVINGTON & BURLING LLP
Salesforce Tower
415 Mission Street, Suite 5400
San Francisco, CA 94105
Telephone: (415) 591-7078
clannin@cov.com

*Attorneys for Defendant The Procter & Gamble
Company*

/s/ Jay P. Lefkowitz

Jay P. Lefkowitz, P.C.

Jacob M. Rae

KIRKLAND & ELLIS LLP

601 Lexington Avenue

New York, NY 10022

Telephone: (212) 446-4800

lefkowitz@kirkland.com

jacob.rae@kirkland.com

Robyn E. Bladow (*pro hac vice*)

KIRKLAND & ELLIS LLP

555 S. Flower Street

Los Angeles, CA 90071

Telephone: (213) 680-8400

robyn.bladow@kirkland.com

Attorneys for Defendant Haleon US Holdings LLC

/s/ Hannah Y. Chanoine

Hannah Y. Chanoine

O'MELVENY & MYERS LLP

Times Square Tower

7 Times Square

New York, NY 10036

Telephone: (212) 326-2000

hchanoine@omm.com

Amy J. Laurendeau (*pro hac vice*)

Emilie W. Hamilton

O'MELVENY & MYERS LLP

610 Newport Center Drive, 17th Floor

Newport Beach, CA 92660

Telephone: (949) 823-6900

alaurendeau@omm.com

ehamilton@omm.com

*Attorneys for Defendant Johnson &
Johnson Consumer Inc.*

/s/ Robert W. Sparkes, III

Robert W. Sparkes, III (*pro hac vice*)

Jennifer Janiera Nagle (*pro hac vice*)

K&L GATES LLP

1 Congress Street, Suite 2900

Boston, MA 02114

Telephone: (617) 261-3100

robert.sparkes@klgates.com

jennifer.nagle@klgates.com

Ruby A. Nagamine (*pro hac vice*)

K&L GATES LLP

925 Fourth Avenue, Suite 2900

Seattle, WA 98104

Telephone: (206) 623-7580

ruby.nagamine@klgates.com

*Attorneys for Defendants Amazon.com, Inc. and
Amazon.com Services LLC*

/s/ E. Paige Sensenbrenner

E. Paige Sensenbrenner (*pro hac vice*)

Diana Cole Suprenant (*pro hac vice*)

ADAMS AND REESE, LLP

701 Poydras Street, Suite 4500

New Orleans, LA 70139

Telephone: (504) 581-3234

paige.sensenbrenner@arlaw.com

diana.suprenant@arlaw.com

*Attorneys for Defendants Associated Wholesale
Grocers, Inc. and Valu Merchandisers Co.*

/s/ Michael Klebanov

Michael Klebanov (*pro hac vice*)

HUSCH BLACKWELL LLP

1801 Pennsylvania Avenue, NW, Suite 1000

Washington, DC 20006

Telephone: (202) 378-2363

michael.klebanov@huschblackwell.com

Tanner Cook (*pro hac vice*)

HUSCH BLACKWELL LLP

8001 Forsyth Boulevard, Suite 1500

St. Louis, MO 63105

Telephone: (314) 480-1500

Tanner.cook@huschblackwell.com

Attorneys for Defendant Dierbergs Markets, Inc.

/s/ Michael F. Healy

Michael F. Healy (*pro hac vice*)

SHOOK, HARDY & BACON L.L.P.

555 Mission Street, Suite 2300

San Francisco, CA 94105

Telephone: (415) 544-1900

mfhealy@shb.com

Daniel B. Rogers (*pro hac vice*)

SHOOK, HARDY & BACON L.L.P.

201 South Biscayne Boulevard Suite 3200

Miami, FL 33131

Telephone: (305) 358-5171

drogers@shb.com

Attorneys for Defendant Publix Super Markets, Inc.

/s/ James L. Bernard

James L. Bernard

HOGAN LOVELLS US LLP

390 Madison Avenue

New York, NY 10017

Telephone: (212) 918-3121

James.bernard@hoganlovells.com

Lauren S. Colton (*pro hac vice*)

HOGAN LOVELLS US LLP

100 International Drive, Suite 2000

Baltimore, MD 21202

Telephone: (410) 659-2733

Lauren.colton@hoganlovells.com

Attorneys for Defendant RB Health (US) LLC

/s/ Cara D. Edwards

Cara D. Edwards

DLA PIPER LLP (US)

1251 Avenue of the Americas, 27th Floor

New York, NY 10020

Telephone: (212) 335-4714

cara.edwards@us.dlapiper.com

Christopher G. Campbell

DLA PIPER LLP (US)

1201 West Peachtree Street, Suite 2800

Atlanta, GA 30309

Telephone: (404) 736-7800

christopher.campbell@us.dlapiper.com

Christopher Young (*pro hac vice*)
DLA PIPER LLP (US)
4365 Executive Drive, Suite 1100
San Diego, CA 92121
Telephone: (619) 699-4748
christopher.young@us.dlapiper.com

Attorneys for Defendant Bayer HealthCare, LLC

/s/ Richard Fama
Richard Fama
COZEN O'CONNOR
3 WTC, 175 Greenwich Street, 55th Floor
New York, NY 10007
Telephone: (212) 509-9400
rfama@cozen.com

Karl Riley (*pro hac vice*)
COZEN O'CONNOR
Southeast Financial Center, Suite 3000
200 South Biscayne Blvd.
Miami, FL 33130
Telephone: (305) 704-5940
koriley@cozen.com

*Attorneys for The Kroger Co., Harris Teeter, LLC,
and Harris Teeter Supermarkets, Inc.*

/s/ Mark J. Lesko
Mark J. Lesko
GREENBERG TRAURIG, LLP
900 Stewart Avenue, 5th Floor
Garden City, NY 11530
Telephone: (631) 994-2408
Mark.Lesko@gtlaw.com

Nilda Isidro
Dale Rose Goldstein
GREENBERG TRAURIG, LLP
One Vanderbilt Avenue
New York, NY 10017
Telephone: (212) 801-9200
Nilda.Isidro@gtlaw.com
GoldsteinD@gtlaw.com

*Attorneys for Defendants Albertsons Companies, Inc.,
Costco Wholesale Corporation, CVS Pharmacy Inc.,
Rite Aid Corporation, Target Corporation, Walgreen
Co., Walmart Inc., and Wal-Mart Stores East, LP*